

Date: April 12, 2022	Originator's files:
To: Chair and Members of General Committee	
From: Geoff Wright, P.Eng, MBA, Commissioner of Transportation and Works	Meeting date: April 27, 2022

Subject

Response to Bill 93, the Getting Ontario Connected Act, 2022

Recommendation

1. That the Bill 93, Getting Ontario Connected Act, 2022 – Final Letter (Appendix 1), submitted on April 7, 2022, from the Commissioner of Transportation and Works, to the Ministry of Government and Consumer Services (with a copy to the Minister of Infrastructure) in response to the proposed legislative amendments to the Ontario Underground Infrastructure Notification System Act (Appendix 2), under Bill 93, the Getting Ontario Connected Act, 2022 (Appendix 3), be endorsed.
2. That the Corporate Report dated April 12, 2022, and entitled “Response to Bill 93, the Getting Ontario Connected Act, 2022”, including a copy of the endorsed letter, be forwarded to the Premier of Ontario, Ministry of Government and Consumer Services, Ministry of Infrastructure and Association of Municipalities of Ontario.

Executive Summary

- The Ontario Legislature is currently debating *Bill 93, the Getting Ontario Connected Act, 2022*, which seeks to amend the *Building Broadband Faster Act, 2021* and the *Ontario Underground Infrastructure Notification System Act, 2012* which could significantly impact various business units within the City. The Bill passed its second reading and was ordered for the third reading on April 6, 2022.
- The Bill is anticipated to become law because it promises to increase broadband reach within the province. In achieving this objective, the Bill proposes faster levels of service and the introduction of a new digital platform managed by the City on behalf of the Minister of Infrastructure without considering the time and cost the City, and other municipalities will incur to comply with the *Act* when enacted.

- Staff have written to the Ministry of Government and Consumer Services on the need for municipalities to have more time to assess Bill's real impact, re-tool existing processes or create new ones, to accommodate the changes and requirements of the *Act* when it comes into law.

Background

The Ontario Legislature passed the *Ontario Underground Infrastructure Notification System Act, 2012* (Appendix 4), on June 14, 2012. The *Act's* objective is to reduce strikes and damage to underground infrastructure by establishing Ontario One Call ("ON1Call"), a not-for-profit corporation, as the single organization to route all underground utility locate requests in Ontario.

The *Building Broadband Faster Act, 2021* (Appendix 5) provides the authority to the Minister of Infrastructure to impose administrative penalties for non-compliance or contravention of the *Act* and its regulations as a means to expedite the delivery of broadband projects with provincial significance.

Bill 93, introduced by the Honourable Kinga Surma, Minister of Infrastructure, on March 7, 2022, is a proposed legislative amendment to the *Ontario Underground Infrastructure Notification System Act, 2012*, and the *Building Broadband Faster Act, 2021* under the *Getting Ontario Connected Act, 2022*. The Bill passed the second reading in the Ontario legislature on March 10, 2022. It was referred to the Standing Committee on General Government for review on March 23, 2022, and ordered for Third Reading on April 6, 2022.

On November 30, 2021, the Ministry of Infrastructure issued the Building Broadband Faster in Ontario: Provincial Statement of Intent and a Guideline (Appendix 6) to outline new best practices, processes, and timelines for rights-of-way, hydro pole attachments and underground infrastructure access. It is expected that the Bill will be in effect immediately after it has been passed. As a result, the timing and communication of the information do not offer sufficient time to modify the City's processes to accommodate the requirements of the Bill, especially as the City cannot anticipate the volume of projects that will fall within the scope of the Bill. The Bill also has areas of ambiguity with unanswered questions regarding its interpretation.

Upon release of the Bill on March 7, 2022, staff observed that the Bill would impact various City business units, particularly those that are utility owners; and/or, those that are roadway permit administrators and information service providers related to utility infrastructure within the City. These business units include Technical Services, Traffic Signals and Systems, Street Lighting, IT, Transportation Infrastructure Management, Forestry, MiWay, HuLRT, Capital Works, and Realty Services.

The Association of Municipalities Ontario (AMO) submitted remarks delivered to the Standing Committee on General Government on March 30, 2022. The AMO's feedback focuses on rural areas. It is unknown if/how the Bill will affect urban environments where the complexity of permit approval in the municipal right of way is significantly greater. The City supports these remarks and further highlights the potential impacts this Bill will likely have on the City of Mississauga and other Ontario municipalities.

Staff submitted a letter on April 7, 2022, from the Commissioner of Transportation and Works to the Ontario Ministry of Government and Consumer Services (with a copy to the Minister of Infrastructure) in response to the proposed legislative amendments to the *Ontario Underground Infrastructure Notification System Act, 2012* and the *Building Broadband Faster Act, 2021* under *Bill 93, the Getting Ontario Connected Act 2022*. On April 5, 2022, staff sent a memo to the Mayor and Council to inform the Council of the Bill, the intent to provide comments via a letter to the Ministry of Government and Consumer Services and a request to have the letter endorsed. The Memo to Mayor and Council, Subject: *Bill 93, the Getting Ontario Connected Act, 2022*, is included in Appendix 7.

Present Status

After reviewing the Bill, several requirements may significantly impact various business units within the City. Of the requirements, the following are those highlighted that may cause the most significant impact:

Broadband Projects

- The Bill proposes new requirements for municipalities in responding to municipal service and right of way access applications from proponents of designated broadband projects. New km length designations for access applications would more than double the current workload for staff processing. This does not consider any increases in the number of access applications to be processed by staff that may result from the new Bill. The requirement includes ten business days for projects 30 km in length or less and 15 business days for projects greater than 30 km in length per application. The Broadband projects will impact City permits/review timelines across various Divisions (e.g. Parks and Forestry, etc.). The term "designated broadband project" has not been defined, and as such, the City cannot determine the scope of work resulting from the Bill at this time.
- The Bill requires that applications for designated broadband projects be submitted through a new permitting/ticketing system (Broadband One Window Platform) to the responsible municipality to review and issue approvals and permits relating to designated broadband projects. The Broadband One Window Platform is maintained on the Minister's behalf to support designated broadband projects' design, procurement, construction and management. However, the implication of integrating this new platform into the City's existing IT infrastructure is unknown.

- The City's response to the submission through the Broadband One Window Platform includes issuing a permit for the project and, where there is a material deficiency issue, preventing issuance. The City will also inform the proponent of the material issue and provide an opportunity to address it. Material deficiency or issue is not defined. As a result, it is difficult to gauge how much input the City will have in where the proponent of a designated broadband project is allowed to place their infrastructure.
- A municipality that receives a request from the Minister for data concerning utility infrastructure that the person or entity owns or operates within 10 metres of a designated broadband project shall disclose the requested data in the form required by the Minister within 15 business days of receiving the request.

Underground Infrastructure Notification (Utility Locates)

- An assessor appointed by the Corporation will be allowed under Bill 93 to impose an administrative penalty against a member (City) or excavator if the assessor is satisfied that the member or excavator has contravened or is contravening a prescribed provision of the *Act* or the regulations. (i.e. the City as an owner can be penalized for late locates).
- Dedicated Locate Provider requirement: on a specified excavation or dig project, the affected members (utility owners) and the project owner must agree in writing on a locator (the "dedicated locator") who will respond to all locate requests by the project owner in respect of the project. The Bill imposes specific requirements on the affected members, the project owner and the dedicated locator, and the Province may stipulate additional requirements in the regulations.

Comments

- Municipalities across Ontario widely support the goal of Bill 93 to increase broadband reach within the Province; as a result, the Bill will likely be passed into an Act as currently drafted. However, there must be a reasonable time to plan, implement and support the changes from a staff perspective.
- The changes proposed in the new legislation may have significant impacts on the City; the extent of the impact will depend heavily on the quantity and scope of "dedicated broadband projects" and "dedicated locator projects" forthcoming due to this legislation.
- Once more information is available, the City's affected business units will need time to determine the extent of these changes and re-tool existing processes or develop new processes to address the requirements adequately.

Financial Impact

The financial impact is unknown at this time. Staff will include the detailed impact in subsequent Corporate Reports once the Ministry provides more information on the Bill.

Conclusion

The proposed legislation in Bill 93 can significantly impact various City business units, including Technical Services, Traffic Signals and Systems, Street Lighting, IT, Transportation Infrastructure Management, Forestry, MiWay, HuLRT, Capital Works, and Realty Services. The extent of these impacts is currently unknown due to the limited information provided by the Ministry of Infrastructure. The main concern is adequate time to prepare for the requirements once they become law.

Once *Bill 93, the Getting Ontario Connected Act, 2022*, is passed into law, the City of Mississauga will have to comply with the requirements, including impacts on IT, staffing resources, and City obligations; or, be subject to fees and penalties. We have submitted our preliminary feedback to the Province and have requested additional detail regarding the technical requirements of the Broadband One Window Platform and the interpretation of the Bill. More importantly, we have also requested a delay in the passage and implementation of the Bill so that the City and other municipalities in Ontario can plan appropriately to accommodate the changes.

Attachments

- Appendix 1: *Bill 93, the Getting Ontario Connected Act, 2022 – Final Letter*
- Appendix 2: Proposed legislative amendments to the *Ontario Underground Infrastructure Notification System Act*
- Appendix 3: *Bill 93, the Getting Ontario Connected Act, 2022*
- Appendix 4: *Ontario Underground Infrastructure Notification System Act, 2012*
- Appendix 5: *The Building Broadband Faster Act, 2021*
- Appendix 6: Building Broadband Faster in Ontario: Provincial Statement of Intent and a Guideline
- Appendix 7: Memo to Mayor and Council, Subject: *Bill 93, the Getting Ontario Connected Act, 2022*



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